

SENATE BILL 3623

By Watson

AN ACT to amend Tennessee Code Annotated, Title 7,  
Chapter 51, relative to nuisance activities.

WHEREAS, the current provisions of law relating to criminal nuisance activities do not provide an adequate tool for abating nuisance properties; and

WHEREAS, the general assembly desires to provide a new process for abatement and enforcement of nuisance activities for home rule municipalities related to chronic nuisance properties; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 51, is amended by adding Sections 2 through 7 of this act as a new part.

SECTION 2. This part shall be known and may be cited as the "Chronic Nuisance Property Act."

SECTION 3.

(a) Chronic nuisance properties present grave health, safety and welfare concerns, where the persons responsible for such properties have failed to take corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. This part is enacted to remedy nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties by providing a process for abatement. This remedy is not an exclusive remedy available under any state or local laws and may be used in conjunction with such other laws.

(b) Also, chronic nuisance properties are a financial burden to the city by the repeated calls for service to the properties for criminal conduct, building code violations and other demands made on city resources that repeatedly occur or exist on or related to such property. This part is a means to resolve those conditions and hold accountable those persons responsible for such property.

#### SECTION 4.

As used in this part:

(1) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this part by such means and in such a manner and to such an extent as the applicable city department director or designees determines is necessary in the interest of the general health, safety and welfare of the community;

(2) "Chronic nuisance property" means property on which a combination of three (3) or more criminal nuisance activities occur or exist during any sixty-day period;

(3) "City" means an incorporated city that has adopted home rule in accordance with the Constitution of Tennessee, article XI, § 9;

(4) "Control" means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property;

(5) "Drug-related activity" means any unlawful activity at a chronic nuisance property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by state law;

(6)

(A) "Nuisance activity" means and includes:

(i) Any nuisance as defined by state law or local ordinance on, around or near a property, including but not limited to, violations of the following laws and regulations:

- (a) Building code;
- (b) Fire code;
- (c) Health and sanitation;
- (d) Property maintenance; or
- (e) Unauthorized and junk vehicles; and

(ii) Any criminal conduct as defined by state law or local ordinance occurring on, around or near property, including, but not limited to, the following activities or behaviors:

- (a) Any dangerous animal violations;
- (b) Any domestic violence crimes;
- (c) Any drug-related activity;
- (d) Any firearms/dangerous weapons violations;
- (e) Any gang-related activity;
- (f) Assault;
- (g) Disorderly conduct;
- (h) Drug related loitering;
- (i) Failure to disperse;
- (j) Harassment;
- (k) Lewd conduct;
- (l) Patronizing a prostitute;
- (m) Prostitution;
- (n) Public disturbance noises;

(o) Reckless endangerment; and

(p) Stalking.

(B) For purposes of this part, “nuisance activity” does not include conduct where the property owner has acted in good faith to resolve a situation and is the victim of a crime and had no control over the criminal act;

(7) “Person” means natural person, joint venture, partnership, association, club, company, business, trust, organization, or the manager, lessee, agent or employee of any of them;

(8) “Premises and property” may be used by this part interchangeably and means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property;

(9) “Property owner” or “person responsible” means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this part, an occupant in control of the property or structure which is subject to this part, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this part and/or any person who has control over the property and allows a violation of this part to continue; and

(10) “Rental unit” means any structure or that part of a structure, including but not limited to single-family home, room or apartment, which is rented to another and used as a home residence, business, or sleeping place by one or more persons.

## SECTION 5.

(a) A city as defined in Section 4 is authorized to enact an ordinance to implement this part within the municipal boundaries of the city.

(b) Any property within the city which is a chronic nuisance property is in violation of this part and subject to its remedies upon the enactment of such an ordinance.

(c) Any person responsible for property who permits property to be a chronic nuisance property shall be in violation of this part and subject to its remedies.

#### SECTION 6.

(a) When the chief of police, or building inspector or the chief of police or building inspector's designees, receives documentation confirming the occurrence of three (3) or more nuisance activities within a sixty-day period on any property, the chief of police or building inspector or the chief of police or building inspector's designees may review such documentation to determine whether it describes the nuisance activities enumerated in Section 4. Upon such a finding, the chief of police, or building inspector or the chief of police or building inspector's designees, shall warn the person responsible for such property, in writing, that the property is in danger of being declared a chronic nuisance property.

(b) The warning shall contain:

(1) The street address or legal description sufficient for identification of the property:

(2) A concise description of the nuisance activities that exist, or that have occurred on the property;

(3) A demand that the person responsible for such property respond to the chief of police or building inspector or the chief of police or building

inspector's designees within ten (10) days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;

(4) A provision offering the person responsible an opportunity to abate the nuisance activities giving rise to the violations; and

(5) A statement describing that if legal action is sought, the property could be subject to being secured to prevent continuation of the nuisance and civil penalties and/or cost assessed up to fifty dollars (\$50.00) per day if declared a chronic nuisance property.

(c) The chief of police or building inspector or the chief of police or building inspector's designees shall serve such warning upon the person responsible in accordance with the procedures set forth above.

(d) If the person responsible fails to respond to the warning within the time prescribed, the chief of police or building inspector or the chief of police or building inspector's designees shall issue a notice declaring the property to be a chronic nuisance property and post such notice at the property and issue the person responsible a civil citation, punishable by a fifty dollar (\$50.00) a day fine until such nuisance is resolved. If the person responsible fails to respond to the issued citation and/or continues to violate this part, the matter shall be referred to the city attorney for further action.

(e) If the person responsible responds as required by the notice and agrees to abate the nuisance activity, the chief of police or building inspector or the chief of police or building inspector's designees and the person responsible, may work out an agreed upon course of action which would abate the nuisance activity. If an agreed course of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the matter shall be forwarded to the city attorney for

enforcement action provided that in the event the chief of police or building inspector or the chief of police or building inspector's designees or the city attorney determines that the person responsible has taken reasonable steps to abate the nuisance activity, the city attorney shall not commence an enforcement action under this part, notwithstanding the continuance of the nuisance activity.

(f) Once a determination has been made by the circuit or chancery court in the county in which the property is located that the chronic nuisance property shall be subject to being secured to prevent continuation of the nuisance, the court may authorize the city to physically secure the premises and initiate such action. Cost for securing the property to prevent continuation of the nuisance shall be submitted to the court for review. Any civil penalty and/or costs awarded to the city may be filed with the city and the city shall cause the same to be filed as a lien on the property in the county register of deeds office in which the city is located. The city shall file a formal lis pendens notice when an action for abatement is filed in the circuit or chancery court.

(g) The circuit or chancery court shall have jurisdiction of all civil citations issued pursuant to this part.

(h) The circuit or chancery court shall retain jurisdiction during any period of abatement of the property or if the property is secured to prevent continuation of the nuisance.

## SECTION 7.

Nothing in this part prohibits the city from taking emergency action for the summary securing of such property when it is necessary to avoid an immediate threat to public welfare and safety. The city may take summary action to secure the property without complying with the notification provisions of civil procedure, but shall provide such notice as is reasonable under the circumstances.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.